

REMARKS

At the time of the Second Office Action dated November 13, 2009, claims 1-2 and 4-21 were pending and rejected in this application. Claims 22-51 have been added, Applicants submit that the present Amendment does not generate any new matter issue.

Applicants have cancelled claims 1-2 and 4-21 to remove these claims from further consideration in this application. Applicants are not conceding in this application that those claims are not patentable over the prior art cited by the Examiner, as the present claim amendments and cancellations are only for facilitating expeditious prosecution of the present application. Applicants respectfully reserve the right to pursue these and other claims in one or more continuations and/or divisional patent applications.

CLAIMS 1-2 AND 4-21 ARE PROVISIONALLY REJECTED UNDER THE JUDICIALLY CREATED DOCTRINE OF OBVIOUSNESS-TYPE DOUBLE PATENTING AS BEING UNPATENTABLE OVER CLAIMS 1-4 AND 18 OF COPENDING U.S. APPLICATION NO. 10/527,135 (HEREINAFTER THE '135 APPLICATION)

This rejection is traversed.

On page 2 of the Second Office Action, the Examiner asserted the following:

The terminal disclaimer filed on 07/06/2009 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of 10/527135 has been reviewed and is accepted. The terminal disclaimer has been recorded. Claims 1, 2 and 4-21 remain provisionally rejected on the grounds of nonstatutory obviousness-type double patenting over Application No. 10/527,135 until said application has been patented.

Since the Examiner has accepted the Terminal Disclaimer, the rejection (provisional or not) has been overcome. As such, Applicants are unclear as to the Examiner's legal basis for the maintaining the provisional rejection. Applicants, therefore, respectfully request that the Examiner clarify the record by clearly stating that the Terminal Disclaimer overcomes the applied rejection, and that the rejection has been withdrawn.

CLAIMS 1-19 AND 21 ARE REJECTED UNDER 35 U.S.C. § 101

Claims 1-2 and 4-21 have been cancelled, and thus, the Examiner's rejection as to these claims is moot.

CLAIM 21 IS REJECTED UNDER THE SECOND PARAGRAPH OF 35 U.S.C. § 112

Claim 21 has been cancelled, and thus, the Examiner's rejection as to this claim is moot.

CLAIMS 1-2 AND 4-21 ARE REJECTED UNDER 35 U.S.C. § 102 AS BEING ANTICIPATED BY HESMER ET AL., "PORTLET DEVELOPMENT GUIDE" (HEREINAFTER HESMER)

Claims 1-2 and 4-21 have been cancelled, and thus, the Examiner's rejection as to these claims is moot.

Notwithstanding that claims 1-2 and 4-21 have been cancelled, newly presented claims 22-51 and previously presented claims 1-2 and 4-21 share certain similar claim limitations. In this regard, Applicants incorporate herein, as applying to the currently pending claims, the arguments previously presented on pages 15-19 of the Amendment filed September 4, 2009. For example, Hesmer fails to identically disclose a shared portlet application session object

accessible by and storing session data for each of a plurality of portlets associated with a portlet application. Hesmer also fails to identically disclose that a web application used called using the shared portlet application session object.

A response to these arguments, however, is not found within the Second Office Action. In this regard, the Examiner is referred to M.P.E.P. § 707.07(f), entitled "Answer All Material Traversed," which clearly states that upon Applicants traversing the Examiner's rejection, "the examiner should, if he or she repeats the rejection, take note of the applicant's argument and answer the substance of it." Although the Examiner has repeated the rejection, the Examiner has not answered the substance of Applicants' arguments. Thus, the Examiner has failed to follow the specific directions of the M.P.E.P. in this matter.

Not only has the Examiner failed to follow the M.P.E.P., the Examiner has ignored the comments made by whoever in the Patent Office reviewed the Second Office Action. Specifically, "Comment [b2]" found on page 4 of the Second Office Action asks "Where is your response to applicant remark regard 102 rejection?" This comment is consistent with Applicants' discussion as to the Examiner's failure to follow M.P.E.P. § 707.07(f).

For above-described reasons, a rejection of the newly presented claims 22-51 under 35 U.S.C. § 102 for anticipation based upon Hesmer would not be proper.

Applicants have made every effort to present claims which distinguish over the prior art, and it is believed that all claims are in condition for allowance. However, Applicants invite the Examiner to call the undersigned if it is believed that a telephonic interview would expedite the prosecution of the application to an allowance. Accordingly, and in view of the foregoing remarks, Applicants hereby respectfully request reconsideration and prompt allowance of the pending claims.

Although Applicants believe that all claims are in condition for allowance, the Examiner is directed to the following statement found in M.P.E.P. § 706(II):

When an application discloses patentable subject matter and it is apparent from the claims and the applicant's arguments that the claims are intended to be directed to such patentable subject matter, but the claims in their present form cannot be allowed because of defects in form or omission of a limitation, the examiner should not stop with a bare objection or rejection of the claims. The examiner's action should be constructive in nature and when possible should offer a definite suggestion for correction. (emphasis added)

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 09-0461, and please credit any excess fees to such deposit account.

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Respectfully submitted,

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